

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-737-W/S - ORDER NO. 2000-663
AUGUST 17, 2000

IN RE: Application of Heater of Seabrook, Inc. for)	ORDER DENYING
Approval of a New Schedule of Rates and)	PETITION FOR
Charges for Water and Sewer Service.)	REHEARING AND
)	RECONSIDERATION OF
)	ORDER NO. 2000-0377

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and Reconsideration of Order No. 2000-0377 filed by the Town of Seabrook Island (the Town) in this remand of the 1993 Heater of Seabrook water rate case. For the reasons stated below, the Petition is denied.

The Town's first ground is that the Commission's determination of the appropriate rate setting methodology is too vague. The Petition complains that without specific comparisons to other similarly situated utilities, the Order is too vague to determine whether the implementation of the return on rate base methodology is supported by substantial evidence. The Town states that this Commission simply stated that the testimonies of the two Heater witnesses are the only testimonies in the record of this case with regard to the appropriate rate making methodology to use. The Town states a belief that a discussion of the two witnesses' testimony is somehow inadequate to support the Commission's conclusion, and is an inadequate analysis of the facts. Somehow, the Town concludes that information is lacking in Order No. 2000-0377 to provide for a meaningful review. Such is not the case.

In determining the appropriate rate setting methodology for this case, the Commission properly reviewed the record before it in making its decision. In the 1996 case of Heater of Seabrook, Inc. v. the Public Service Commission of South Carolina, Inc., Town of Seabrook Island, and South Carolina Department of Consumer Affairs, 324 S.C. 56, 478 S.E. 2d 826 (1996) (“Heater I”), the South Carolina Supreme Court cautioned the Commission to “employ a methodology tailored to the facts and circumstances of the case before it,” supra at 830.

The Commission followed those instructions in this case, and relied on the testimonies of witnesses Grantmyre (Tr. P. 19) and Parcell (Tr. p. 63) to determine the size of the utility’s rate base, which is almost four million dollars. A substantial rate base is a characteristic of a utility which needs a rate of return sufficient to obtain the necessary equity and debt capital for sound operation, supra at 831. Based on the size of the rate base and the various factors elicited from the testimony, the Commission determined that a return on rate base methodology is proper.

South Carolina law does not require the use of any particular price-setting methodology. Nucor Steel v. South Carolina Public Service Commission, 312 S.C. 79, 349 S.E. 2d 270 (1994). Moreover, nothing in statutory or case law requires this Commission to make “analogies to other similarly situated companies” or compare rate bases of different utilities in order to determine a particular methodology for price-setting, as encouraged by the Town. On the contrary, the Supreme Court cautioned against the use of comparisons in Heater of Seabrook v. The Public Service Commission of South Carolina, 332 S.C. 20, 503 S.E. 2d 739 (1998) (“Heater II”): “Despite our instructions in Heater I, the PSC based its decision of the appropriate rate setting method on two things: comparison with other utilities and prior practice. Nowhere in the orders was there a reference to any characteristic of Utility making the operating margin method

appropriate.” Therefore, it was inappropriate for this Commission to attempt to make comparisons in Order No. 2000-0377.

We specifically made findings in our Order, based on evidence and testimony in the record concerning the specific characteristics of the utility and the proper price-setting methodology. The Town’s argument that a rehearing or reconsideration is necessary because of “vagueness” of the Order is without merit.

The second ground cited in the Town’s Petition is that the Commission erroneously relied upon Heater of Seabrook’s expert to determine a proper rate of return under the rate base methodology. The Town alleges that since Heater of Seabrook is not a publicly traded company and has not borrowed monies on the open market, Heater’s request for a market-based rate of return “does not make sense.” The Town goes on to criticize the expert’s various analyses, and also to state that the Company’s analysis did not account for the actual economic times of the test year. The Town then concludes that the Commission erroneously relied on the expert’s testimony to determine the appropriate rate of return on equity. This ground is also not a valid one.

The difficulty with the Town’s point is that it never presented any of these arguments at the rate hearing in 1994, nor was Heater of Seabrook’s expert David Parcell cross-examined on the models and comparisons upon which he relied at that hearing. No objections were made to the expert’s qualifications, nor were his recommendations on rate of return disputed. Finally, the expert’s testimony was not challenged in any Brief filed heretofore in any of the years of litigation involving this case.

Upon remand, the Commission is limited to the evidence presented at the original rate hearing in 1994 and the instructions from the South Carolina Supreme Court. Parker v. South Carolina Public Service Commission, 288 S.C. 304, 342 S.E. 2d 403 (1986). Under the

Administrative Procedures Act, the Commission has the discretion to determine whether or not a witness is qualified to testify as an expert, and the prerogative to weigh conflicting testimony and opinions. There is no countervailing evidence in this record which rebuts the testimony of the Heater of Seabrook expert witness on rate of return.

The Commission reviewed the evidence and testimony and chose a methodology appropriate for the specific facts and circumstances of the utility company. The Commission relied on the evidence and witness testimony in the record. Both witnesses Parcell and Grantmyre testified that the rate base methodology should be used; no other witness gave an opinion on methodology. It is within this Commission's discretion to adopt the rate-setting method that is appropriate, provide that method complies with Code of Laws. S.C. Code Ann. Section 58-9-570 (1976); Porter v. South Carolina Public Service Commission, 333 S.C. 12, 507 S.E. 2d 328 (1998). Clearly, the methodology adopted by this Commission in this case complied with that mandate. The second ground for the Town's Petition must be rejected.


Having rejected both grounds cited in the Town's Petition, the Petition is hereby denied.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)